


Sec. 108-91. - Scope; major and minor developments.

(3) Commercial land use: addition of outdoor commercial activity consisting of restaurant seating, outdoor commercial storage, active recreation, outdoor sales area or similar activities equal to or greater than 2,500 square feet.

**APPLICATION**

**DEVELOPMENT PLAN AND CONDITIONAL USE APPLICATION**  
City of Key West Planning Department  
3140 Flagler Avenue, Key West, FL 33040  
(305) 809-3720



**RECEIVED**  
JUL 31 2018  
BY: NCH

**Development Plan & Conditional Use Application**  
***Applications will not be accepted unless complete***

<u>Development Plan</u>	<u>Conditional Use</u>	<u>Historic District</u>
Major <input checked="" type="checkbox"/>	<input type="checkbox"/>	Yes <input checked="" type="checkbox"/>
Minor <input type="checkbox"/>	<input type="checkbox"/>	No <input type="checkbox"/>

Please print or type:

1) Site Address MALLORY SQUARE KEY WEST, FL 33040

2) Name of Applicant Trepanier & Associates, Inc. on behalf of Tropical Soup

3) Applicant is: Owner  Authorized Representative  Corporation  
(attached Authorization and Verification Forms must be completed)

4) Address of Applicant 1421 FIRST ST.  
KEY WEST, FL 33040

5) Applicant's Phone # 305-293-8983 Email

6) Email Address: OWEN@OWENTREPANIER.COM

7) Name of Owner, if different than above CITY OF KEY WEST

8) Address of Owner PO BOX 1409 KEY WEST, FL 33040

9) Owner Phone #  Email

10) Zoning District of Parcel HPS RE# various (see footnote)

11) Is Subject Property located within the Historic District? Yes  No   
If Yes: Date of approval 9/28/10 HARC approval # H10-01-355  
OR: Date of meeting

12) Description of Proposed Development and Use. Please be specific, list existing and proposed buildings and uses, number of dwelling units, parking, restaurant seats, vehicles proposed, etc. If there is more than one use, describe in detail the nature of each use (Give concise description here and use a separate sheet if necessary).

Restructuring of existing non-conforming restaurant to comply fully with ADA and FEMA requirements and add ADA access to the Hospitality House. Will result in an increase in landscaping, reduction in impervious surface, increased storm water retention, and an increase in open space.

## STAFF REPORT

In order to allow the proposed development, the following development approval would be necessary or is requested by the applicant:

- Major Development Plan review is required due to the reconstruction equal to or greater than 2,500-square-feet of nonresidential gross floor area, pursuant to Section 108-91.A.2.(B) of the Land Development Regulations (LDRs) of the Code of Ordinances (the "Code") of the City of Key West (the "City")

# Tropical Soup Corporation

509 1/2 Duval Street

Key West, Florida 33040

305-293-2876

March 1, 2010

## PROPOSAL

To: The City of Key West  
Address: 525 Angela Street, P.O. Box 1409  
Key West, Florida 33041

**Project Title: Mallory Square Cable House and Hospitality House**  
**Project Date: Published on January 24, 2010**

Bidder's person to contact for additional information on this Proposal:  
**Name: Joseph Walsh**  
**Telephone: 305 293-2876**

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this Proposal are those named herein, that this Proposal is, in all respects, fair and without fraud, that it is made without collusion with any official of the Owner, and that the Proposal is made without any connection or collusion with any person submitting another Proposal on this Contract.

This bid includes: the Public notice offered by the City on January 24, 2010, The Survey of parcels 1 through 5 by Island Surveyors Inc. dated January 28, 2010, bidder's public entities statement, bidder's anti collusion affidavit, bidder's conceptual drawings titled Mallory Square by Florida Building Consultants dated February 1, 2010 and bidder's narrative summary.

The Bidder further declares that he has carefully examined the Contract Documents, that he has attended the mandatory pre-bid conference meeting and walk-through held on January 29, 2010, has personally inspected the Project, that he has satisfied himself as to the work involved.

The Bidder is experienced in restaurant ownership and management. Principals of the bidder are majority owners of Caroline's Cafe, Fogarty's Restaurant, Jack Flats, Redfish Bluefish and Mangoes Restaurant in Key West, and Fogarty's Grill in Coral Springs, Florida. Combined these restaurants have approximately 350 employees. The bidder has been able to turn unprofitable restaurant locations into successful ones.

The bidder has adequate financial resources to undertake this project, and will provide bonds or letters of credit to guarantee the construction, and as security for the leasehold. The bidder will seek no loans, nor is financing of the proposed construction a contingency of this proposal.

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This proposal is in response to the notice by the City of Key West on January 24, 2010 seeking a lease proposal for Mallory Square Cable House Property Parcel ID #0072082-001100, Hospitality House Property Parcel ID #00072082-001400 and shown on the survey drawn by Island Surveying Inc. Number 10-108 on January 28, 2010.

Tropical Soup Corporation, a Florida corporation offers to lease the 4 parcels as described in the City's offer of January 24, 2010, and shown on the survey done by Island Surveying Inc drawing number 10-108 on January 28, 2010. **The bidder, would build a new structure to house a full service restaurant and would offer outside cafe style seating with umbrellas. The bidder anticipates a small retail component** along with the restaurant. The bidder would replace the damaged dock area. The bidder would create a park and green space and would offer an ADA accessible attraction and museum featuring an interactive historical perspective on Mallory Square and the Key West waterfront. The bidder would strive to create a destination restaurant as well as recreational and cultural elements that could stand alone, or become an additional positive point of interest in an integrated waterfront promenade.

The bidder believes that the interests of the City have been poorly served by the benign neglect of Mallory Square. The construction of black "prison style" bars around buildings, the location of OMI equipment and electrical transformers in public view, the lack of resources dedicated to the City's only public restrooms as well as the underutilization of high profile locations are all massive areas of opportunity for Key West to become more friendly and inviting for tourists as well as residents. The sporadic use of Mallory Square by city residents, typically when out of town guests are visiting, or for special events is a shame. The revitalization of this waterfront park (ing lot) should be a focal point in making the City a more desirable place to live and visit.

The bidder has included conceptual architectural renderings with this proposal, and anticipates ongoing discussions with the City concerning design and landscape elements. The bidder anticipates the need to create some form of landscaping, fountain, or fencing elements to block off parcel five from Mallory Square. the bidder anticipates meetings with City Staff in the planning, building, landscaping and HARC offices as well as the boards for all of those organizations. The bidder is cognizant of some of the concerns regarding this area and would work to address any issues while retaining a need to be able to pay its rental obligations. The bidder would attempt to retain as much landscaping as possible and would work with the city on park design ideas be they a fountain, bronze statuary, or landscaping and park seating. The bidder may seek rent credits to offset some of the preservation and construction costs of this project. The bidder has discussed the historic character of Mallory Square with city staff and believes that it can complete its plan within HARC guidelines. The Hospitality House, occupying a portion of Parcel 4 would be repaired and made ADA compliant. The frame construction on parcel 2 would be removed, and further discussions would be held regarding the use of the concrete structure on Parcel 2. This building is not included in the Sanborn maps of 1948, and is not included in the Key West Historic Resources Survey.

The area is zoned, Historic Public and Semipublic Services District (HPS) Compared to the City's other commercial zoning districts, this has relatively limited permitted uses. As such, the existing restaurants, food service vendors, animal acts, retail stores, retail stands and other uses offering goods for sale are all non-conforming. Many of the special events that Mallory Square is used for are also non-conforming uses. The City asserts that there is an existing non-conforming use for the proposed lease space. Bidder

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anticipates the continuation of the non-conformity, but hopes that the City addresses the obvious discrepancies in this zoning district.

The Bidder has read the most recent examples of leases that the city has executed with some of its other tenants and is generally comfortable with the form and language. In the event that the initial lease is valued at market, however, the bidder has serious reservations about large annual increases in rent not tied to the bidder's sales.

The bidder offers \$303,000.00 in annual rent for the combined parcels. Bidder further believes that it could offer more in annual rent if the inappropriate zoning were addressed. Bidder believes that in both gross dollars, and per square foot that this offer is considerably higher than the City receives from its other tenants at Mallory Square. The bidder would expect the lease term to be 10 years. The bidder further offers additional rent determined by 7 percent of sales above a reasonable break point. Bidder is aware of no City leases offering this level of participation on the upside of its leases. The percentage rent offer anticipates the possibility of revisiting the zoning issues and allows for the City to participate in the event that modified zoning allows bidder to maximize its potential sales.

**There appears to be inadequate licensed seating to operate a full service restaurant on these parcels. The bidder anticipates working with the city to an equitable solution to secure adequate seating to operate the business profitably, but that would remain an asset of the property owner. Bidder further anticipates reasonable accommodations from both bidder and the City with regard to easements, ingress and egress as well as setbacks. There are several likely ongoing areas of cooperation including: access to parcel 5, homeland security issues related to cruise ship or port traffic, Mallory square special events be they bidder's or another vendor, utility access, drainage issues for Mallory Square, foot bridge and dock access, restroom access and maintenance. Bidder is interested in exploring parking validation or other options like the City has with some of its other tenants.**

Bidder will be pleased to provide any additional information that the City would deem helpful in evaluating its bid. Please direct any inquiries to Joseph Walsh at 305-293-2876. Email: [tropicalsoup1@gmail.com](mailto:tropicalsoup1@gmail.com)

Truly Yours,



Joseph H. Walsh

President

Tropical Soup Corporation